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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/678,357	10/06/2003	Kazutaka Yamamoto	R2180.0059/P059-E	1792
24998	7590	01/05/2005	EXAMINER	
DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP 2101 L Street, NW Washington, DC 20037			HINDI, NABIL Z	
		ART UNIT		PAPER NUMBER
		2655		

DATE MAILED: 01/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.	10/678,357	Applicant(s)	YAMAMOTO, KAZUTAKA
Examiner	NABIL Z HINDI	Art Unit	2655

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 20 October 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 40-49 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 40-49 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) Notice of Informal Patent Application (PTO-152)
6) Other: _____

In response to applicant's amendment dated October 20, 2004. the following action is taken:

The claims are rejected for the same reasons set forth in the previous office action mailed July 22, 2004 repeated here for applicant's convenience.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 40-49 are rejected under 35 U.S.C. 102(b) as being anticipated by Roth et al (5463607).

The reference shows an optical disk recording apparatus comprising: an input data Va, memory means for storing data 5, and encoder 50a, data recording head 3, memory level monitoring means to determine the storage capacity Vg1, stopping the data recording on the disk if the memory level is below a predetermined level see fig 2 steps S6-S8 wherein the data from the memory is maintained see column 6 lines 62-68. the reference in figs 2 and 4 discloses the use of a Vmin and a Vmax data stored in the memory means in order to control the data writing or pausing on the disk.

With respect to the limitation of claim 41. The claim read on resuming the recording operation based on the memory filing level see fig 2 steps S1-S4.

With respect to the limitation of claim 42. The reference discloses the use of a first level and a second levels Vmin and Vmax.

With respect to the limitations of claims 43 and 44. The reference discloses the use of an CIRC encoder 50a having an input data 5.

With respect to the limitations of claims 45-48. The reference discloses the use of a recording device to record digital data on an optical CD having a digital input data 5.

Applicant's arguments filed October 20, 2004 have been fully considered but they are not persuasive. Applicant's arguments are centered around the prior art not showing the "maintaining the encoded data" in the memory. The limitation "maintaining" merely read on having a predetermined memory fill level during the data recording/pausing operation. The reference does disclose in column 11 lines 1-18 the use of an encoder CIRC prior to the buffer memories which in turn would store the encoded data contrary to applicant's arguments.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication should be directed to NABIL Z HINDI
at telephone number (703) 308-1555.



NABIL HINDI
PRIMARY EXAMINER
GROUP 3800
[Handwritten signature below]